

REMARKS

The Office Action of September 9, 2008 has been carefully considered. Claims 1 and 2 were pending in the application and were rejected. Claim 2 has been cancelled and claim 1 has been amended.. None of the amendments to the claims introduce new subject matter. Amended claim 1 is supported throughout the specification, for example, at page 7, lines 9-19.

The Examiner's requirement to correct the specification has been accomplished by amendment to the specification at the paragraph beginning at page 7, line 17, which merely adds the wording that appeared in original claim 2. The amendment to the specification at the paragraph beginning on page 7, line 20 corrects grammar and is supported by the paragraph at page 8, beginning at line 5.

Drawings

The objections to the drawings have been addressed. Figures 1-5 have been labeled -- Prior Art. Figure 5 is amended to correct the repeat reference numbers and to remove reference number 66 which is not mentioned in the description.

35 USC 103

The claims were rejected under 35 USC 103(a) as being unpatentable over Wilk (US 5,368,015). Applicant traverses the rejection.

The Examiner's grounds for the rejection contains error in that certain elements of the Wilk endoscopic instrument were mischaracterized. The Examiner stated that Wilk discloses an active actuator such as a tension cable assembly. The Examiner continued, stating that in such a case the computer/switching circuit (326, Fig. 10A) would anticipate a manipulator on the proximal end of the support unit and control the active actuator (e.g., motor) according to electric signals. This last statement was not disclosed by Wilk. Wilk's computer/switching circuit (326) is not connected to an actuator and thus does not control an actuator. Element 326 is disclosed to function only to transmit images. Thus Wilk discloses "Imaging circuitry in the form of a signal switching computer 326 is operatively connected at inputs to cameras 312 and 314 and at an output to transmitter 38 (FIG. 1)." (Col 10, lines 38-41).

Furthermore the Examiner conceded that Wilk failed to disclose a supporting unit that includes a pair of left and right supporting rods with parallel structure. However, the Examiner

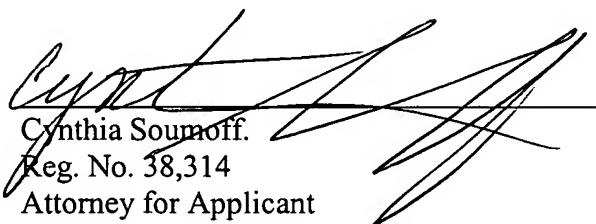
dismissed this deficiency with the logic that one of ordinary skill would recognize that, without criticality, a single tube or two parallel tubes, both used for the purpose of being a support unit for the laparoscope and both providing the same functions of supporting flexible tubes and containing wires, would be obvious over one another as a matter of choice in design. This logic is faulty in that it uses hindsight obtained from the disclosure of the present application to provide the concept of the two parallel tubes as claimed in the instant invention. Without the benefit of the present application, the person of skill in the art who was contemplating use of more than one supporting rod for a stereoscopic endoscope would have been directed to the embodiment of Wilk's Fig. 13, which contemplates inserting the endoscopic apparatus first by means of a narrow single rigid member followed by insertion of an angled rigid member, without ever needing to choose a design incorporating parallel tubes. The Examiner provided no showing that there was any design need to make a change to that embodiment.

Further, the fault in the Examiner's logic lies in the Examiner's failure to consider that the application stated critical advantages of using the inventive paired supporting rods. The application discloses that the support unit that contains the pair of supporting rods with cameras on the distal ends, and with the angle between the rods manipulated by an actuator, as shown in Fig. 7, can attain a predetermined angle that encompasses a relatively wide distance between the cameras, similar to the stereoscopic vision of a human, thus enabling that a relatively wide area of the affected part can be examined. (Page 8, lines 10-15 and lines 19-28). In contrast, the Wilkes design results in a more limited distance between the cameras. Thus, the inventive laparoscope is more than a matter of design choice and has benefits beyond what the Examiner stated.

In view of the foregoing, Applicants submit that all pending claims are in condition for allowance and request that all claims be allowed. The Examiner is invited to contact the undersigned should he believe that this would expedite prosecution of this application. It is believed that no fee is required. The Commissioner is authorized to charge any deficiency or credit any overpayment to Deposit Account No. 13-2165.

Respectfully submitted,

Dated: April 20, 2009


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